



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

Docket Number FRA-2014-0043

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated April 22, 2014, the National Passenger Railroad Corporation (Amtrak) is requesting a waiver from the requirements of 49 CFR 214.336, *On-track safety procedures for certain roadway work groups and adjacent tracks*. FRA assigned the petition Docket Number FRA-2014-0043.

In its petition, Amtrak requests relief from the portion of 49 CFR Part 214 where roadway workers (herein referred to as “workers”) are able to occupy and satisfy the requirements of a predetermined place of safety (PPOS). The waiver is sought for the express purpose of providing workers with a safe means of traversing to a PPOS when working alongside Amtrak’s production equipment, which does not allow access between the rails of the occupied track, and where an adjacent controlled track is present on the same side as the worker. When it is safe to do so, the Roadway Worker-In-Charge (RWIC) will identify the PPOS to be within the vertical planes projected by the occupied track’s running rails within working limits, or clear of all tracks, per 49 CFR 214.336(b). When such a place is not accessible or will require the worker to directly expose themselves to movement on one or more tracks while traversing to occupy their PPOS, the RWIC will identify the PPOS to be within the perimeter of the equipment so that no

part of their person will break the plane of the equipment's perimeter. The equipment will effectively protect the worker from fouling the adjacent controlled track.

Title 49 CFR 214.336(a)(1) defines the procedure for on-track safety that is required for each adjacent controlled track when a roadway work group with at least one of the roadway workers on the ground is engaged in a common task with on-track, self-propelled equipment, or coupled equipment on an occupied track. Title 49 CFR 214.336(b)(1) provides the requirements for affected workers to cease all on-ground work and equipment movement being performed, and occupy a PPOS upon receiving either a warning or notification of equipment movement on the adjacent controlled track. The average track center spacing on the Northeast Corridor (NEC) is less than 19 feet, and is therefore regulated under the requirements of 49 CFR 214.336. Amtrak's production equipment units are typically work trains that consist of many on-track, self-propelled, coupled pieces of equipment, and the materials required for continuous action track renewal (rail, ballast, and/or tie replacement), removal of track, and/or track laying. The current practice for workers engaged in a common task with on-track, self-propelled equipment prevents worker access to a PPOS between the running rails of the occupied track, and when the workers must cross the tracks for which movement is authorized. The safest PPOS is identified within the perimeter of the immobile production equipment on the occupied track but not between the running rails.

Title 49 CFR 214.336(e)(2) provides exceptions for workers performing maintenance or repairs either alongside or within the perimeter of a roadway maintenance machine, or coupled equipment on the occupied track. The exception to the requirement to cease work does not apply to workers on the ground engaged in a common task with

such equipment when a warning is provided for movement on the adjacent controlled track, when the equipment prevents access between the rails of the occupied track, when the only alternate PPOS requires workers to cross tracks for which movement is authorized at maximum authorized speeds (the highest authorized speed on the NEC is 150 mph, 220 feet per second).

An unfortunate consequence of the procedures for adjacent controlled track is that workers are frequently required to engage in a common task alongside Amtrak's production equipment to cross a convergent path with the projected path of the movement for which a warning was just received. A worker's exposure to the risk associated with an adjacent controlled track is maximized at that moment as a result of the regulation designed to minimize this particular risk. The normal frequency of passing trains on the NEC can be as high as 30 trains per hour, which includes instances of multiple trains authorized to pass the work group simultaneously. In the scenario of multiple authorized movements, a worker's view of adjacent track movements could be obstructed by an approaching movement requiring them to blindly cross an unprotected track.

Amtrak seeks regulatory relief so that the RWIC may identify a PPOS in an area of the stationary equipment, which minimizes risk for the worker traversing to occupy the identified PPOS, provided that such PPOS is within the widest perimeter dimension of the equipment and no part of the worker's person may break the plane projected by the equipment's widest perimeter dimension. The equipment would effectively shelter the worker in a place of safety. Equipment authorized to operate on the NEC must meet the dimensional specification, "Clearance Limitations of Roadway Equipment; Plate C", which is defined specifically for the safe passage of multiple adjacent movements at the

most restrictive spacing of track center locations (Figure 1). It is this specification that ensures the worker a PPOS protected from authorized movements.

Amtrak states in its petition that it is dedicated to ensuring the safety of its employees, and emphasizes that Amtrak does not wish to seek a waiver from the procedures for adjacent controlled track movements when the RWIC feels it safe for the workers to cross and occupy a PPOS in accordance with the regulation. The method of identifying a PPOS within the widest perimeter dimension of stationary equipment on an occupied track is a common practice that has been employed since Amtrak's inception without any records of serious injury or fatality. In contrast, the procedure provided in the regulation (crossing live tracks to reach the PPOS) has resulted in fatalities. The Fatality Analysis of Maintenance-of-way Employees and Signalmen committee's most recent publication on "Fatalities on Adjacent Tracks" shows that 91 percent of the Roadway Worker Protection fatalities that are classified as adjacent track fatalities occurred on adjacent tracks with less than 19-foot spacing, where roadway maintenance machines were present and in use on the track where work was being performed.

Amtrak believes that the waiver requested will provide a level of safety for workers engaged in a common task with on-track, self-propelled equipment, or coupled equipment on an occupied track that exceeds the regulation's requirements. Therefore, Amtrak believes that relief from the PPOS requirements for production track-laying machines, as defined in the regulation, is in the best interest of its roadway workers and consistent with railroad safety objectives.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing

in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., W12-140, Washington, D.C. 20590.
- Hand Delivery: 1200 New Jersey Avenue, S.E., Room W12-140, Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by [INSERT DATE 30 DAYS FROM PUBLICATION OF THIS NOTICE] will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business,

labor union, etc.). See <http://www.regulations.gov/#!privacyNotice> for the privacy notice of regulations.gov or interested parties may review the U.S. Department of Transportation's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on

Robert C. Lauby
Associate Administrator for Railroad Safety
Chief Safety Officer

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